

TOWN OF ALLENSTOWN
Zoning Board of Adjustment
16 School Street
Allenstown, New Hampshire 03275
July 13, 2016

Call to Order.

The Allenstown Zoning Board of Adjustment Meeting for July 13, 2016 was called to order by The Chair at 6:37pm.

Roll Call.

Present on the Board: Eric Feustel, Chris Roy, Jeff Gryval, and Keith Klawes.

Excused: Roger LaFlamme and Robert Bergeron.

Others Present.

Residents of Allenstown: Robert Edstrom, Michelle Lessard, Bob Tiggs, Ann Simpson, Patsy Malo, Normand Malo, Richard Malo, and Tracy Duguay.

Others Present:

Other Public Officials:

Allenstown Staff: Dana Pendergast, Building Inspector.

The Chair asked everyone to sign in on the attendance sheet and to also state their name when speaking. He also explained an applicant has to have three affirmative votes and he will not vote unless he has to break a tie.

Review and Approve Minutes

Chief Pendergast stated they do not have the minutes for tonight.

**Case# 2016-0001 Patsy Malo & Tracy Duguay 28 River Road Lot# 105-007 Residential-R1
Variance Article VII Section 703.b**

Mr. Malo stated he would speak for the applicants; his parents and uncle. He stated he had some pictures for them. The Chair explained the pictures need to be part of the public record. Chief Pendergast stated they need to have copies of any pictures he is submitting to the Board. The Chair asked if he would email them in. Chief Pendergast stated he could. Mr. Malo stated the picture was a reference point to see what they were taking down. He stated they are looking to replace old barn which is 30 by 30 feet and a dog kennel which is 20 by 20 feet. He stated they were looking at rebuilding it but once they started looking into it they realized it is unsafe. He stated they want to take both structures down and replace them with one new structure which will be 42 by 26 feet. He stated it will be made of aluminum. He stated it is three and a half feet off the property line. He stated the new structure will be the same brown color as the house. He explained the structure is to park their truck, tractors, and ATV. He stated it will take the eye sore away and improve the overall aesthetics of the road.

The Chair asked if the setbacks were remaining the same. Mr. Malo stated they will be the same. He stated one of the setbacks would be coming toward Mr. Edstrom's property line. He stated they will take out the old structure and mold the kennel into the new structure.

The Chair informed Mr. Malo they do not have a full board and he will need three affirmative votes. Mr. Gryval stated he has the option to present tonight or wait until they have a full Board.

Ms. Lessard, 4 Kimberly Lane, asked if the dog kennel was the rounded building. Mr. Malo stated it was not; it is a plastic shed. She asked where the new structure would be in relation to the dog kennel. Mr. Malo showed Ms. Lessard where on the map the new structure would go. He showed her it would be where one of the old structures is and then over by ten feet. Ms. Lessard asked how high the structure would be. Mr. Malo stated it would be 15 feet high.

Ms. Lessard asked what type of structure it will be. Mr. Malo stated it will be an aluminum barn. He stated it will be two by four aluminum studs and then wrapped in aluminum. Ms. Lessard stated in the paperwork it says something about a dog kennel. Mr. Malo stated they currently use the kennel for storage. Ms. Lessard asked if they will be using it as a kennel. Mr. Malo stated they will be coming down.

Mr. Malo stated they have done their windows, siding, and removing trash on the property. He stated they know it is an eye sore so they want to clean it up before it falls on someone.

Mr. Edstrom, 26 River Road, stated he is in favor of what Mr. Malo wants to do and thinks it will be an improvement. Ms. Lessard asked if it will have a roof. Mr. Malo stated it will have an A-frame roof.

Mr. Gryval asked the Code Enforcement Officer if he has been out to see the site and if he has a recommendation. Chief Pendergast stated he has seen the site and thinks it will be a vast

improvement. He explained the reason they are before the Board tonight is because they are three feet off the site so they are asking for a variance on it. He stated it is worth the relief for the setback.

Chief Pendergast stated because it is a new structure they are replacing and it was not destroyed by natural disaster they have to come before the Board.

Motion. Mr. Roy made a motion to go into deliberation. Mr. Gryval seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Klawes – Yes; Mr. Roy – Yes; and Mr. Gryval-Yes. The Chair declared the Motion passed.

The Chair asked about the diminution of value of surrounding properties. The Board agreed it does not diminish value of surrounding properties.

The Chair asked if granting the variance will not be contrary to public interest. Mr. Gryval stated he would agree it is not based on the neighborhood and the comments of the abutters. Chief Pendergast stated he received four phone calls in the positive of this.

The Chair asked if the literal enforcement would create unnecessary hardship. The Board agreed it does not create hardship.

The Chair asked if the proposed use is reasonable. The Board agreed the proposed use is reasonable.

The Chair asked if granting the relief substantial justice will be done. Mr. Gryval stated he would agree because they are taking a subpart building and replacing it with something very similar yet lower and conducive to the neighbors. Mr. Klawes stated they are taking two buildings down and putting one in. The Chair stated the only thing he sees is could they put the building somewhere else however, with the road he doesn't think they can. Mr. Gryval stated if they pushed it out the additional 12 feet they would have to reduce the size of the building.

The Chair asked if the spirit of the ordinance is being observed. The Board agreed it was being observed.

Motion. Mr. Roy made a motion to come out of deliberation. Mr. Klawes seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Klawes – Yes; Mr. Roy – Yes; and Mr. Gryval-Yes. The Chair declared the Motion passed.

Motion. Mr. Roy made a motion to grant the variance for Article VII Section 703.b. Mr. Klawes seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Klawes – Yes; Mr. Roy – Yes; and Mr. Gryval-Yes. The Chair declared the Motion passed.

The Chair informed Mr. Malo there is a 30 day period which would allow someone to appeal if they want to.

Review Rules & Procedures

Chief Pendergast distributed a set of Rules & Procedures recommended to them. He asked the Board to review them and let him know if they want any changes or have any questions. He recommended they adopt them.

Mr. Roy asked if there is a set amount of time they are supposed to meet. Chief Pendergast explained the Zoning Board only meets when they have to. The Chair suggested they have a meeting in August to certify the minutes of both meetings and adopt the Rules & Procedures.

Chief Pendergast stated they only meet when there is a need. He stated they are supposed to take every case on its merit; it's a case by case basis. Mr. Gryval stated if they have clear Rules & Procedures someone can appeal based on what the rules are. He stated it also gives them a good guide to go by to make sure they follow the rules.

Chief Pendergast stated they don't have a secretary. Mr. Gryval stated the secretary on this Board would not have a lot of responsibility because they have Mrs. Baxter for a clerk and Mrs. Hetu for the minute's clerk. Chief Pendergast suggested the secretary keep time signatures of the meeting because sometimes it is difficult for the minute's clerk to hear things.

The Chair stated the one thing which would really help is to write down word for word the motions made because there may be a provision of the variance. Chief Pendergast stated once the minutes are certified and they are put in the book, its gospel. The Chair stated their decisions can go to court so the minutes could be reviewed by a judge.

Chief Pendergast stated the appeals process is in the rules. He explained if they voted in the affirmative one of the members from the audience can appeal it within 30 days. He stated if they are denied the appeal it goes to Superior Court. Mr. Gryval stated all the secretary is doing is making sure things are recorded correctly.

Mr. Gryval stated in the cases he has been involved in it has been the Code Enforcement Officer and the attorney who speaks.

Motion. Mr. Gryval made a motion to accept Keith Klawes as Secretary for the Zoning Board of Adjustment. Mr. Roy seconded the Motion. There was no additional discussion. A Roll Call Vote was taken: Mr. Klawes – Yes; Mr. Roy – Yes; and Mr. Gryval-Yes. The Chair declared the Motion passed.

Schedule Upcoming Meeting

The Chair stated the next meeting would be August 10, 2016 at 6:30pm.

Mr. Gryval suggested they concern the Planning Board will be crafting any changes to the ordinances or anything new in the fall. Mr. Roy stated they are working on it right now. Mr. Gryval stated if there is something they think the Planning Board should amend or change it would be a good time to discuss it.

Chief Pendergast stated they are working on a new sign ordinance. He stated the Superior Court had a large signage case. He stated it has made the sign ordinance difficult to craft because everything done with the sign ordinance is an infringement with the 1st Amendment Right to Speech. He explained they tried to limit the flashing, scrolling, and bright lights. He stated they also were going to allow for a master signage plan which would allow one master sign and then wall pack signs to call out each individual person but it got severely rejected.

Chief Pendergast stated one of the amended ordinances is assessor dwelling because the new law made assessor dwelling unconstitutional the way the ordinance is now. He explained the Supreme Court is saying the main building or accessory apartment has to be occupied by the owner and nothing else.

The Chair asked if there is something in the trash ordinance they can't put the barrel out overnight. Mr. Gryval stated they can't be out 5pm on Sunday to 5pm on Tuesday.

Chief Pendergast stated he thinks there is going to be a change in the ordinances on accessory apartments and commercial buildings.

Mr. Gryval asked if they are doing ordinances on all the solar panels going up. Chief Pendergast stated there is a windmill and solar panel ordinance they are working on.

Mr. Gryval stated they had a public hearing on the Northern Pass when he was a selectman and no one showed up. He stated they had a selectman who wanted to take a stance but the residents don't seem to care. Chief Pendergast stated the only thing is it is going to affect the outer Deerfield Road and there will be taller towers. The Chair asked if they are sticking with the

existing power lines. Mr. Gryval stated it will be in the existing right of way but the towers will be higher.

Motion. Mr. Roy made a motion to adjourn. Mr. Gryval seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Klawes – Yes; Mr. Roy – Yes; and Mr. Gryval-Yes. The Chair declared the Motion passed.

The Chair declared the meeting adjourned at 7:20pm.

TOWN OF ALLENSTOWN
ZONING BOARD OF ADJUSTMENT
PUBLIC MEETING MINUTES

July 13, 2015

Signature Page

Original Approval:	
ERIC FEUSTEL, Chair	DATE
CHRISTOPHER ROY, Member	DATE
KEITH KLAWE, Member	DATE
JEFF GRYVAL, Member	DATE

Amendment Approvals:		
Amendment Description:	Approval:	Date:
	ERIC FEUSTEL, Chair	DATE
	CHRISTOPHER ROY, Member	DATE
	ROGER LAFLAMME, Member	DATE
	ROBERT BERGERON, Member	DATE
	DIANE DEMERS, Member	DATE